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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,015	10/17/2001	Steve Dispensa	1573	5595

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EXAMINER

APIAH, CHARLES NANA

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/981,015

Applicant(s)

DISPENSA ET AL.

Examiner

Charles N. Appiah

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-60 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-9, 13-29, 33-49, 53-57, 58, 59 and 60 are rejected under 35 U.S.C. 102(e) as being anticipated by Schneider (6,377,562).

Regarding claims 1, 21 and 41 Schneider discloses a method of operating a probe device, a software product and a probe device in a broadband wireless system (high data bandwidth portion of WASL communication, see col. 4, lines 62-64), the method comprising: receiving a message (feature of signals received from WASL

subscribers by the radio tower, see col. 4, line 65 to col. 5, line 2), processing the message to determine channel information describing use of each of a plurality of channels in the broadband wireless system by each of a plurality of users (data recovery from signals received from the bandpass filter by processor 32 in accordance with the particular cellular communication utilized, see col. 5, lines 8-49), and storing the channel information in a memory in the probe device (Quality of service subscription data including schedules being stored in the memory of the quality of service processor 36, see col. 8, lines 11-16).

Regarding claims 2, 3, 22, 23 42 and 43 Schneider further discloses wherein the channels are upstream and downstream (downstream direction to users and upstream, see col. 3, lines 30-39).

Regarding claims 4, 24 and 44 Schneider further discloses wherein the message is a credit that allows usage of one of the channels (monitoring of signal character of the individual sub-carriers and the bit error rate performance at the subscriber premises and transported to the base station, see col. 5, lines 17-23).

Regarding claims 5, 25 and 45 Schneider further discloses wherein the message indicates a completion of usage one of the channels (see col. 7, lines 56-65).

Regarding claims 6, 26 and 46 Schneider further discloses wherein the probe is connected to a switch in the broadband wireless system (feature of ATM switch being part of WASL, see col. 2, lines 49-66, col. 4, line 59 to col. 5, line 16).

Regarding claims 7, 8, 27, 28, 47 and 48 Schneider further discloses wherein the probe device is connected to an upstream manager and a downstream manager in

the broadband wireless system (see channel probe of WASL transmission base station of Fig. 1).

Regarding claims 9, 16, 17, 29, 36, 37, 49, 56 and 57, Schneider further discloses wherein the message comprises determining a state of the channels and the channel information comprises a change in a state of one of the channels (channel quality and/or bit error rate for each channel being fed back dynamically from the user, see col. 3, lines 61-67).

Regarding claims 13, 20, 33, 40, 53 and 60 Schneider further discloses determining a time in the state (feature of token controller determining how long a data source may send its data after 'capturing' the token, see col. 6, lines 36-44).

Regarding claims 14, 15, 18, 19, 34, 35, 38, 39, 54, 55, 58 and 59 Schneider's teaching of each user requiring a particular data throughput rate and quality of service (see col. 6, lines 17-21) and being able to accommodate different subscriber options including adjusting output data bit rate for each buffer separately, (see col. 6, lines 30-35) reads on monitoring a number of bytes transmitted and number of messages transmitted during a state of one of the channels.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 10-12, 30-32, and 50-52, are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider as applied to claims 9, 29 and 49 above, and further in view of Moura et al. (6,411,606).

Regarding claims 10-12, 30-32 and 50-52, Schneider fails to explicitly teach wherein the state is polling dedicated or idle.

Moura discloses a hybrid access system for extending a high-speed network to remote locations wherein state of a channel is determined by polling (see col. 2, lines 44-67), in the dedicated state (see col. 5, lines 15-24, col. 5, lines 34-59), and in an idle state (see col. 2, lines 58-60).

It would therefore have been obvious to one of ordinary skill in the art to combine Moura's hybrid access system with Schneider's WASL communication system in order to combine the flexibility of a full duplex network with the effectiveness of a broadcast network at a reasonable cost using a credit allocation system as taught by Moura.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Opoczynski (5,519,830) discloses a system for performance monitoring of a communications network.

Hylton et al. (5,613,191) discloses a system and method for providing interactive multimedia services using wireless distribution to subscriber premises.

Reynolds et al. (6,925,052) discloses a multi-channel network monitoring apparatus.

Jonas et al. (US 2002/0036985) discloses a scheduling scheme for a broadband wireless access system.

Chapman (6,594,280) discloses a method for supporting header suppression and multiple micro flows in a packet network.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

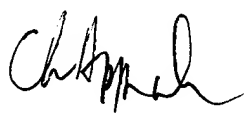
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Appiah whose telephone number is 571 272-7904. The examiner can normally be reached on M-F 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on 571-272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CA


CHARLES APPIAH
PRIMARY EXAMINER